better rule and probably expresses the weight of authority. *Montgomery Gas Light Co.* v. *Montgomery,* 87 Ala. 245, 4 L. R. A. 616. (2) As to what constitutes irreparable injury: *Dels. Imp. Co. et al.* v. *City of Eau Claire,* 115 Wis. 155, holding that injunction lies to restain defendant from passing an ordinance declaring null and void a contract regarding the construction and operation of a dam, water works and the use of water rights incident thereto, on the ground that irreparable injury would result therefrom, in that it would create a cloud on the title. Contra, *Montgomery Gas Light Co.* v. *Montgomery,* 87 Ala. 245, 4 L. R. A. 616, holding that injunction does not lie to restrain council from passing ordinances annulling contract with gas company, because a void law is no law, and the same is true of an ordinance, consequently no injury can result therefrom. *Spring Valley Water Works* v. *Bartlett,* 16 Fed. 615, 8 Sawy. 555; *Des Moines Gas Co.* v. *Des Moines,* 44 Iowa 505, 24 Am. Rep. 756.

INSURANCE—ACCIDENT INSURANCE—PROXIMATE CAUSE OF DEATH.—Plaintiff who held an accident policy in defendant company which provided for liability on the part of the company in case of death from bodily injury from external, violent and accidental means, resulting, independent of all other causes, in death, fell from his carriage and was immediately seized with a fatal attack of "auto-intoxication." In an action on the policy, *held,* that it was not shown that death was caused by the fall. *Aetna Life Insurance Co.* v. *Bethel* (1910), — Ky. —, 131 S. W. 523.

This case raises the doctrine of proximate cause and presents the usual difficulty of practically applying the simple rule that the company is liable when the accident is the proximate cause of the result. In accident insurance, however, proximate cause has a somewhat unusual relation to liability, as liability is fixed by the contract of insurance, and the question to be determined is, "does this contract cover this condition of affairs?" *Travelers Insurance Co.* v. *Melick,* 65 Fed. 178, 184, 27 L. R. A. 629. "Proximate cause" in accident insurance has been held to mean that cause which directly produces the effect,—the cause which sets in motion a train of events which brings about the result without the intervention of any force operating *and working actively from a new and independent source; but this does not necessarily mean the cause or condition nearest in time or place to the result.* 1 CYC. 273. In *Freeman* v. *Mercantile Mut. Ass'n.,* 156 Mass. 351, 30 N. E. 1013, 17 L. R. A. 753, a fall, which brought on a renewed attack of peritonitis causing death, was held to be the proximate cause. So also in *Fetter et al.* v. *Fidelity & Casualty Co.,* 174 Mo. 256, 73 S. W. 592, 61 L. R. A. 459, in which case a fall ruptured an already cancerous kidney. An injury may be the cause of death within the intent of the policy fully as much if death results because of a peculiar condition or particular weakness of the deceased, even though in an ordinary man no such result would have happened. The weak man is to be protected as well as the strong. *Freeman* v. *Association,* supra. The difference between accident and disease is difficult to determine, as is pointed out by VANCE, INSURANCE, p. 566 (and note) where he says that typhoid fever, contracted from germs in drinking water causing

death, is considered by the courts as disease, whereas death caused from blood poisoning caused by an abrasion on the toe as a result of a tight shoe, is accidental, (citing *Western Commercial Travelers Ass'n.* v. *Smith,* 85 Fed. 401, 40 L. R. A. 653,) whereas the distinction "if it exists, is so subtile as not to be capable of expression in language intelligible to any one but a physician." In the principal case the deceased had had "auto-intoxication"—a disease which may come from an injury or otherwise—about a month before and was attacked again immediately after this fall. The plaintiff, however, failed to prove that the fall actually caused the renewed attack, there being a possibility that the disease may have been a natural recurrence, regardless of any accident. The case seems to have been lost more through a failure of proof than any contract rule of law, as under the authority of *Freeman* v. *Association,* supra, the fact that the deceased was particularly susceptible to the disease would not have prevented a recovery were it shown that the accident actually caused this attack.

JUDGMENTS—COLLATERAL ATTACK FOR FRAUD.—H., a director of the defendant lumber corporation, became an accommodation endorser on some of its notes; having been obliged to pay the amount of the notes, he sued the defendant corporation for the sum so paid and recovered judgment by confession of its president. Subsequently the plaintiff, also a creditor of the defendant lumber company, recovered a judgment upon his claim. The latter now seeks by this suit in equity against the lumber company, H. and others to have the judgment in favor of H. against the lumber company subordinated to his own, charging H. with fraud in procuring the same. The alleged fraud consisted of delay caused to plaintiff in pursuit of his remedy by H's assurance that he would be taken care of. *Held,* the court having had jurisdiction, its judgment could not be attacked collaterally by plaintiff and that the evidence failed to establish fraud on the part of H. *Irvine* v. *Randolph Lumber Corporation et al.* (1910), — Va. —, 69 S. E. 350.

It is undoubtedly the general rule that parties to an action will not be permitted to assail the judgment collaterally for fraud because, having had their day in court, they are estopped. FREEMAN, JUDG., §§ 334 and 335; *Randolph* v. *King,* Fed. Cas. No. 11560 (2 Bond 104); *Boston etc. R. R. Corp.* v. *Sparhawk,* 1 Allen 448, 79 Am. Dec. 750. But a contrary doctrine seems to have found favor with some courts, *Hall* v. *Hamlin,* 2 Watts 354; *Phelps* v. *Benson,* 161 Pa. 418, 29 Atl. 86. That a judgment may be collaterally impeached by strangers at any time on the ground of fraud or collusion is a doctrine which must be accepted as settled by a long and unbroken chain of authorities, *Greene* v. *Greene,* 2 Gray 361; *Michaels* v. *Post,* 21 Wall. 398, 427; but the proposition as stated above must be taken subject to certain limitations, for the right to attack a judgment collaterally is given only to those strangers who, if the judgment is allowed full operation and effect, would be injured in some pre-existing right, *Simpson* v. *Kimberlin,* 12 Kan. 579; *Secrist* v. *Green,* 3 Wall. 744, 18 L. Ed. 153.

JUDGMENTS—NECESSITY FOR SEAL ON PROCESS.—Rev. St. 1895, Art. 1447 of Tex. provides that all writs and processes shall be attested by the clerk